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14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN FRANCISCO DIVISION**

17  
18 DAVID M. CATHCART, JAMES H.  
19 WHITEHEAD, ROBERT W. DECKER, DALE  
20 BALDISSERI, individually, and on behalf of all  
21 others similarly situated,

22 Plaintiff,

23 v.

24 SARA LEE CORPORATION, SARA LEE  
25 BAKERY GROUP, and DOES 1 through 20,

26 Defendants.

27 Case No. CV 09-5748 MMC

28 **[PROPOSED] ORDER ON  
STIPULATION FOR LEAVE TO  
MODIFY THE SCHEDULING ORDER  
TO ALLOW AMENDMENT OF  
PLEADINGS**

The Honorable Maxine M. Chesney

Complaint filed: December 8, 2009

## ORDER

Good cause appearing, IT IS HEREBY ORDERED as follows:

1. Plaintiffs may file and serve a Second Amended Complaint, in the form attached as Exhibit A to the parties' stipulation filed October 5, 2010, ~~hereunto as Exhibit A~~, by no later than ten days after the date of entry of the Court's Order.

5        2. Defendants shall have leave to file an amended answer, responding to Plaintiffs'  
6 Second Amended Complaint and adding an affirmative defense of preemption of some or all of  
7 Plaintiffs' California law claims by (1) the Federal Aviation Administration Authorization Act  
8 (49 U.S.C. § 14501); (2) the federal hours of service statutes and the regulations promulgated  
9 pursuant thereto by the Federal Motor Carrier Safety Administration (*see* 49 U.S.C. §§31502,  
10 31136; 49 C.F.R. pt. 395); and (3) the Fair Labor Standards Act (*see* 29 U.S.C. § 201 *et seq.*), by  
11 no later than fifteen days after the date of service of the Second Amended Complaint.

12           3. The deadline for discovery as to Motor Carrier exemptions is extended to January  
13 15, 2011.

14        4. The Scheduling Order shall be modified to reflect the above-referenced  
15 amendments to the pleadings and discovery extension.

16 || DATED: October 7, 2010

*Maxine M. Chesney*  
MAXINE M. CHESNEY  
United States District Judge